

**Letter of Findings: 03-20191074
Withholding Tax
For Tax Year Ending 2017**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Indiana racing team was issued an assessment for withholdings in error.

ISSUE

I. Indiana Withholding Tax - Race Teams.

Authority: IC § 6-8.1-5-1; *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2011); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2011).

Taxpayer believes that its assessment for withholding tax is incorrect and asks that the Department apply withholding payments previously submitted to the assessment.

STATEMENT OF FACTS

Taxpayer is an Indiana stock car racing team competing in the series managed by Governing Body. Prize monies received from Governing Body for Indiana races have Indiana tax withheld. Governing Body then issues 1099s referencing the Indiana withholdings. For tax year 2017, Taxpayer attempted to pass a total of \$15,010.90 in withholdings through to its drivers by filing forms 1099 for each driver showing their respective amounts of Indiana withholdings. Taxpayer also filed a summary form WH-3. The Indiana Department of Revenue ("Department") then issued a proposed assessment for base tax of \$15,010.90.

Taxpayer filed a timely protest asking that its withholding account balance "which is reflective of the amounts withheld by Governing Body, be applied as payment to the 2017 Form WH-3 and thus credited to the drivers' accounts respective of their Form 1099." Along with its protest, Taxpayer filed a Protest Submission Form indicating its waiver of a hearing. Thus, this Letter of Findings is based on information provided by Taxpayer in the file and other information available to the Department.

I. Indiana Withholding Tax - Race Teams.

DISCUSSION

Taxpayer is a racing team which competes in the national automotive racing series managed by Governing Body. Taxpayer receives prize monies from Governing Body net of withholding of \$15,010.90. Governing Body then issues 1099s referencing the Indiana withholdings. Taxpayer filed the 1099s with the Department and also filed a WH-3 reflecting \$15,010.90 in Indiana withholdings. The Department issued a proposed assessment for base withholding tax of \$15,010.90 plus penalty and interest. Taxpayer protested asking that the \$15,010.90 remitted through its account be applied to the WH-3.

All tax assessments are *prima facie* evidence that the Department's claim for unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2011); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, the taxpayer is required to provide documentation explaining and supporting its challenge that the Department's position is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138,

1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2011).

Governing Body remitted prize monies to Taxpayer as its teams competed in and placed in a Governing Body race which took place in Indiana. According to Department guidance, the monies Governing Body remitted to Taxpayer were net of withholdings. Governing Body passed those withholdings on to Taxpayer through 1099s which divided the winnings and withholdings amongst Taxpayer's drivers. Taxpayer filed the 1099s with the Department along with a WH-3. Taxpayer was not required to file the WH-3, and its presence triggered an assessment to be issued. As the assessment was triggered and issued in error, Taxpayer's protest is sustained.

FINDING

Taxpayer's protest is sustained.

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